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SUMMARY RECORD OF THE 36th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 3 April 1997, at 10 a.m.

Chairman: Mr. SOMOL (Czech Republic)

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GE.97-11607 (E)

The meeting was called to order at 10.55 a.m.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS RELATING TO AGENDA ITEMS 5 AND 14

Draft resolutions and decisions relating to agenda item 5

1. Mr. van WULFFTEN PALTHE (Netherlands), speaking on behalf of the European Union, said that all the financial implications of the draft decisions and resolutions adopted by the Commission would be examined subsequently by the Fifth Committee of the General Assembly.

Draft resolution E/CN.4/1997/L.13 (Human rights and unilateral coercive measures)

2. Mr. CASTRO GUERRERO (Colombia), introducing the draft resolution on behalf of the Movement of Non-Aligned Countries and China, recalled that all peoples had the right freely to determine their political status and freely to pursue their economic, social and cultural development. It was to protect that right that all States were called upon to refrain from adopting any unilateral measures that were not in accordance with international law and in particular measures of a coercive nature which created obstacles to trade relations among States, thus impeding the full realization of the rights set forth in the Universal Declaration of Human Rights. Such measures, which could go as far as depriving entire peoples of essential goods such as food and medicines, could not replace bilateral dialogue or multilateral negotiations, which alone could enable all peoples to live in harmony and strict respect for international law.

3. Mrs. RUBIN (United States of America) said that each nation had the absolute right to decide with which nations it would trade and the conditions under which such trade should take place. The draft resolution was but another effort by the Cuban Government to distract the Commission's attention from its lamentable human rights record. If that Government was concerned about its country's development, it should liberalize its economy and allow the Cuban people to exercise to the full the political and social freedoms proclaimed in the Universal Declaration of Human Rights. For those reasons, her delegation would vote against the draft resolution.

4. Mrs. KLEIN (Secretary of the Commission) explained that, if adopted, draft resolution E/CN.4/1997/L.13 would have no implications for the programme budget.

5. At the request of the representative of the United States, a vote was taken by roll-call.

6. Brazil, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Argentina, Bangladesh, Belarus, Benin, Bhutan, Brazil, Cape Verde, Chile, China, Colombia, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Gabon, Guinea, India, Indonesia, Madagascar, Malaysia, Mexico, Mozambique, Nepal, Nicaragua, Pakistan, Philippines, Russian Federation, South Africa, Sri Lanka, Uganda, Uruguay, Zaire, Zimbabwe.

Against: Bulgaria, Canada, Germany, Japan, Netherlands, Republic of Korea, United Kingdom, United States.

Abstaining: Austria, Czech Republic, Denmark, France, Ireland, Italy, Ukraine.

7. Draft resolution E/CN.4/1997/L.13 was adopted by 37 votes to 8, with 7 abstentions.

Draft decision E/CN.4/1997/L.19 (Human rights and the environment)

8. Mrs. KLEIN (Secretary of the Commission) said that Venezuela had also become a sponsor of the draft decision which, if adopted, would have no financial implications.

9. Draft decision E/CN.4/1997/L.19 was adopted.

Draft resolution E/CN.4/1997/L.21/Rev.1 (The right to food)

10. Mr. FERNANDEZ (Cuba), introducing the draft resolution, said that hunger was the result of the unequal distribution of wealth, as well as injustice in the world. The right to food was not an unusual or abstract right but an inalienable human right. In the draft resolution, which was the result of extensive consultations, the Commission reaffirmed that hunger constituted an outrage and a violation of human dignity and stressed the need to reinforce national action to implement sustainable food security policies. That confirmed the international community's determination to fulfil the undertakings it had assumed at the World Food Summit.

11. Mrs. REGAZZOLI (Argentina) said that, although she would vote for the draft resolution, it had not been sponsored by Argentina since the right to food was of such importance that its protection should be the subject of a serious commitment on the part of the entire international community.

12. Mrs. RUBIN (United States of America) said that the United States was pleased to join in the consensus on the draft resolution which, as amended, largely incorporated language used in the Rome Declaration on World Food Security and the World Food Summit Plan of Action. However, it believed that the important issue of food security was more properly and effectively addressed in forums other than the Commission.

13. In the view of the United States, the term "right of everyone to have access to safe and nutritious food" meant that Governments should promote the ability of their citizens to obtain food through their own production or the

opportunity to engage in remunerative employment. Similarly, the attainment in any society of a "right to adequate food" or "fundamental right to be free from hunger" did not give rise to any international obligation or diminish the responsibilities of Governments towards their citizens.

14. Lastly, although it understood the need to mobilize available resources to strengthen national actions to implement policies that improved food security, the United States considered that any reference to external debt relief necessitated mutually agreed terms between debtors and creditors.

15. Mrs. KLEIN (Secretary of the Commission) announced that Algeria, Canada, Denmark, Egypt, Norway, Peru, the Libyan Arab Jamahiriya and the United Republic of Tanzania should be added to the list of sponsors of the draft resolution.

16. Draft resolution E/CN.4/1997/L.21/Rev.1 was adopted.

Draft resolution E/CN.4/1997/L.22 (Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights)

17. Mr. ZAHRAN (Egypt), introducing the draft resolution on behalf of the Group of African States, said that the dumping of toxic wastes on the African continent constituted a serious threat to the human right to life and health. However, although many bodies, including the Organization of African Unity and the World Conference on Human Rights, had condemned that situation, the rate of dumping of hazardous and other wastes in the African and other developing countries by transnational corporations and other enterprises from industrialized countries was increasing.

18. For that reason, the Commission should provide the Special Rapporteur with adequate means to fulfil her mandate and invite the international community and competent United Nations bodies to give appropriate support to the developing countries in their efforts to implement the provisions of existing international and regional instruments controlling the transboundary movement and dumping of toxic and dangerous products and wastes.

19. Mr. LEHMANN (Denmark) was of the view that the problem raised in the draft resolution was extremely serious. However, the Commission was not the ideal body to deal with it since there were a number of conventions on the subject and a monitoring system had been established under the Basel Convention. His delegation would therefore vote against the draft resolution.

20. Mr. VAN WULFFTEN PALTHE (Netherlands) endorsed the views expressed by the Danish representative. Referring to paragraph 11 of the draft resolution, he pointed out that the two cases of illicit movement and dumping of toxic and dangerous products involved the Netherlands and that the Special Rapporteur had mentioned one as concerning a problem of pollution and not of traffic and the other as concerning activities which had long since been ended.

21. Mrs. RUBIN (United States of America) endorsed the view expressed by the Danish representative. The problem at issue was much too serious to be

tackled superficially, particularly as the Commission's agenda was already overburdened. The Special Rapporteur's mandate should therefore be terminated.

22. At the request of the representative of the United States of America, a vote was taken by roll-call.

23. Bulgaria, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Argentina, Bangladesh, Benin, Bhutan, Brazil, Cape Verde, Chile, China, Colombia, Cuba, Ecuador, Egypt, El Salvador, Ethiopia, Gabon, Guinea, India, Indonesia, Madagascar, Mexico, Mozambique, Nepal, Nicaragua, Pakistan, South Africa, Sri Lanka, Uganda, Uruguay, Zaire, Zimbabwe.

Against: Austria, Canada, Denmark, France, Germany, Italy, Japan, Netherlands, Russian Federation, Ukraine, United Kingdom, United States.

Abstaining: Belarus, Bulgaria, Czech Republic, Dominican Republic, Ireland, Malaysia, Philippines, Republic of Korea.

24. Draft resolution E/CN.4/1997/L.22 was adopted by 32 votes to 12, with 8 abstentions.

Draft resolution E/CN.4/1997/L.23 (Effects on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt and, in particular, on the implementation of the Declaration on the Right to Development)

25. Mr. GONZALEZ (Cuba), introducing the draft resolution, said that it was also being sponsored by Algeria, Gabon, Ghana, Sudan, the United Republic of Tanzania and Venezuela.

26. It was common knowledge that foreign debt was a serious problem which continued to affect economic, social, scientific and technical development adversely and to reduce living standards in many developing countries. Despite the extremely weak economic growth recorded during the 1990s, foreign debt had doubled in comparison with the 1980s. The various measures adopted to alleviate the problem included the initiative in respect of low-income highly-indebted countries and the decision of the Paris Club to go beyond the Naples terms. Yet the rigidity of the eligibility criteria approved by the community of creditor countries in the framework of such initiatives was of serious concern. Moreover, a large number of developing countries had not yet been able to find an effective, equitable, durable and development-oriented solution to the problem of outstanding debt and debt servicing.

27. For that reason it was necessary, by the adoption of the draft resolution, to create the necessary conditions for the solution of the problem, particularly through efforts to establish a just and equitable

international economic order and to ensure that creditor countries and international financial institutions increased financial assistance to the indebted developing countries in order to support the implementation of economic reforms, combat poverty and achieve sustained economic growth and sustainable development. The sponsors hoped that the draft resolution would be supported by all delegations genuinely wishing to solve what was a problem of fundamental importance for the developing countries.

28. Mrs. KLEIN (Secretary of the Commission) said that the draft resolution was also being sponsored by the Syrian Arab Republic and Togo.

29. At the request of the representative of the United Kingdom of Great Britain and Northern Ireland, a vote was taken by roll-call.

30. The Philippines, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Argentina, Bangladesh, Benin, Bhutan, Brazil, Cape Verde, Chile, China, Colombia, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Gabon, Guinea, India, Indonesia, Madagascar, Malaysia, Mexico, Mozambique, Nepal, Nicaragua, Pakistan, South Africa, Sri Lanka, Uganda, Uruguay, Zaire, Zimbabwe.

Against: Austria, Belarus, Bulgaria, Canada, Denmark, France, Germany, Ireland, Italy, Japan, Netherlands, Russian Federation, Ukraine, United Kingdom, United States.

Abstaining: Czech Republic, Philippines, Republic of Korea.

31. Draft resolution E/CN.4/1997/L.23 was adopted by 34 votes to 15, with 3 abstentions.

Draft resolution E/CN.4/1997/L.24 (Human rights and extreme poverty)

32. Mr. BERNARD (France), introducing the draft resolution, said that it was also sponsored by Australia, Bhutan, Bulgaria, Cape Verde, Ecuador, Gabon, Mexico, Mongolia, Romania, Senegal and Uruguay.

33. Year after year the international community's interest in human rights and extreme poverty had increased steadily. The International Year for the Elimination of Poverty, 1996, which had marked the beginning of the United Nations Decade for the Eradication of Poverty, had been the occasion for reaffirming the obligation to ensure respect for the human rights of the poorest. The Commission, at its present session, had before it the final report of the Special Rapporteur on human rights and extreme poverty (E/CN.4/Sub.2/1996/13), which constituted a milestone in efforts to ensure greater protection for the rights of all.

34. The sponsors of the draft resolution proposed that the Commission should approve the Special Rapporteur's recommendations that activities in that field should be pursued by assigning a special role to the High Commissioner for

Human Rights and hoped that the Special Rapporteur's report would be circulated as widely as possible. Special attention was paid to the question of women living in extreme poverty.

35. The following subparagraph should be added after paragraph 7 (e) in order to take into account the decisions of the Economic and Social Council and the Commission on the Status of Women:

> "Submit to the Commission at its fifty-fourth session, in accordance with agreed conclusions 1996/1 of the Economic and Social Council, a report, to be prepared by the Centre for Human Rights and the Division for the Advancement of Women, on the obstacles encountered and progress achieved in the field of women's rights relating to economic resources, the elimination of poverty and economic development, in particular for women living in extreme poverty;".

36. The sponsors hoped that, as in previous years, the draft resolution would be adopted by consensus.

37. Mrs. KLEIN (Secretary of the Commission) announced that the draft resolution was also being sponsored by Brazil, the Czech Republic, Norway, Mozambique, the Philippines, the Republic of Korea, Sweden, Togo, Ukraine and Venezuela.

38. Draft resolution E/CN.4/1997/L.24, as amended, was adopted.

Draft decision E/CN.4/1997/L.27 (Effects of structural adjustment policies on the full enjoyment of human rights)

39. Ms. BAUTISTA (Philippines), introducing the draft resolution on behalf of the countries participating in the open-ended working group on structural adjustment programmes and economic, social and cultural rights, recalled that, during the discussion of agenda item 5, a number of delegations had emphasized the need to pay more attention to economic, social and cultural rights in the interest of the universality, indivisibility and interdependence of all human rights. It was in that spirit that her delegation had decided to submit draft resolution E/CN.4/1997/L.27, under which the Commission would authorize a study of the effects of structural adjustment policies on economic, social and cultural rights. That study would constitute an update of previous work on the subject by the former Special Rapporteur on the realization of economic, social and cultural rights.

40. She urged the many delegations which had not taken part in the working group's deliberations to give that body a second chance. In view of the importance of structural adjustment to the developing countries, she earnestly hoped that the draft decision would be adopted by consensus.

41. Mrs. KLEIN (Secretary of the Commission) announced that Equatorial Guinea was also sponsoring the draft resolution.

42. Explaining the financial implications of the draft decision, she said that the functional services of the Working Group's session would be provided

by the Office of the United Nations High Commissioner for Human Rights/Centre for Human Rights; conference services would be provided under chapter 26.E of the programme budget for the 1996-1997 biennium. The appointment of an independent expert to study the effects of structural adjustment policies on economic, social and cultural rights would entail travel costs and subsistence allowances (field mission and official trip to Geneva for consultations with the High Commissioner for Human Rights/Centre for Human Rights) and the submission of a report to the Commission at its fifty-fourth session. Those costs, which were estimated at US$ 19,000 for 1997 and US$ 6,000 for 1998, could be financed respectively under chapter 21 of the programme budget for the 1996-1997 biennium and credits made available under chapter 22 of the draft programme budget for the 1998-1999 biennium.

43. At the request of the representative of the United Kingdom, a vote was taken by roll-call.

44. Chile, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Algeria, Angola, Argentina, Bangladesh, Benin, Bhutan, Brazil, Cape Verde, Chile, China, Colombia, Cuba, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Gabon, Guinea, India, Indonesia, Madagascar, Malaysia, Mexico, Mozambique, Nepal, Nicaragua, Pakistan, Philippines, Republic of Korea, South Africa, Sri Lanka, Uganda, Uruguay, Zaire, Zimbabwe.

Against: Austria, Belarus, Bulgaria, Canada, France, Germany, Italy, Japan, Netherlands, Russian Federation, Ukraine, United Kingdom, United States.

Abstaining: Czech Republic, Denmark, Ireland.

45. Draft decision E/CN.4/1997/L.27 was adopted by 36 votes to 13, with 3 abstentions.

46. Mr. KONISHI (Japan), explaining his delegation's vote on draft resolutions E/CN.4/1997/L.22 (Adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights) and E/CN.4/1997/L.23 (Effects on the full enjoyment of human rights of the economic adjustment policies arising from foreign debt and, in particular, on the implementation of the Declaration on the Right to Development), said it had voted against the former since it believed that the problem should be tackled by United Nations bodies which dealt with environmental issues rather than by the Commission. With respect to the future work of the Special Rapporteur, his delegation considered that any allegations she received should be communicated to the Governments concerned, which should be given ample time to reply, and that their replies should be duly reflected in the report.

47. Draft resolution E/CN.4/1997/L.23 linked the problem of foreign debt to the question of human rights with a view to alleviating the debt burden. Not only did that resolution fail to reflect the language agreed upon in

paragraph 12 of the Vienna Declaration but it also tried to introduce inadequate elements and divert attention from the real problem. For those reasons, his delegation had voted against it.

48. Ms. BAUTISTA (Philippines), explaining her vote on draft resolutions E/CN.4/1997/L.22 and E/CN.4/1997/L.23, said she had abstained on the former because the technical questions raised were not within the purview of the Commission. Furthermore, the Special Rapporteur had failed to take into account the information communicated by Governments, preferring - in the case of the Philippines for example - to base her report on newspaper articles.

49. Her delegation had also abstained from the vote on draft resolution E/CN.4/1997/L.23, despite its espousal to the broad principles it proclaimed, because it considered that structural adjustment policies were not entirely bad and that their content could be improved.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS RELATING TO AGENDA ITEM 14

Draft decision E/CN.4/1997/L.18 (Status of the International Covenants on Human Rights)

50. Mr. WILLE (Norway), introducing the draft decision, said that there was a widely held view that the Commission had to deal with too many draft resolutions each year. In order to rationalize its work, therefore, it had been proposed that it should consider certain draft resolutions only every two years. The purpose of draft decision E/CN.4/1997/L.18 was precisely to enable the Commission to "biennialize" draft resolutions on the status of the Covenants on Human Rights; that would not weaken the substance of the issue considered under that item. The draft decision would also enable the Commission to continue to consider that agenda item at its next session and his delegation hoped it would be adopted by consensus.

51. Mrs. KLEIN (Secretary of the Commission) said that Denmark, Equatorial Guinea, Romania and Ukraine had also become sponsors of the draft decision.

52. Draft decision E/CN.4/1997/L.18 was adopted.

Draft resolution E/CN.4/1997/L.20 (Question of the death penalty)

53. Mr. TOSCANO (Italy), introducing the draft resolution on behalf of the 46 sponsors, said his delegation was aware that the question of the death penalty was an extremely delicate subject on which it was unlikely a consensus would emerge. However, every effort had been made to avoid offending various feelings.

54. The ultimate objective for all the delegations which had sponsored the draft resolution was obviously abolition of the death penalty; that involved a long-term task which they intended to tackle energetically. Yet the draft was also addressed to all those which, not being prepared to adopt an abolitionist position, shared the view of the sponsors that, even if certain rules limited

the application of the death penalty, they were unfortunately not always respected, as well as to all those which recognized that when human lives were at stake it was vital to comply with extremely strict standards of procedure.

55. His delegation hoped that, if the draft resolution was put to a vote, the number of delegations voting for it would be much greater than those which already subscribed to the idea, and that delegations which would be unable to vote for it would nevertheless not deny, by a negative vote, that a discussion which was unlikely to come to an end in the near future was fully justified.

56. Mrs. KLEIN (Secretary of the Commission) said that Angola, Nepal and Papua New Guinea wished to withdraw as sponsors of the draft resolution and that Chile had become a sponsor.

57. DATO HISHAMMUDDIN TUN HUSSEIN (Malaysia) introduced the amendments (E/CN.4/1997/L.35) proposed to draft resolution E/CN.4/1997/L.20.

58. Although human rights had a universal dimension, their promotion was a matter that fell within the jurisdiction of individual States. It was inadmissible that a country should try, through the decisions of the Commission or other United Nations bodies, to have the death penalty abolished or to impose its values and its legal system on another country. At both the national and international levels, the protection of human rights should always take into account the combination of the historical, demographic, cultural, economic, social and political factors peculiar to the country in question, so that the principle of national sovereignty could be respected. From that standpoint, draft resolution E/CN.4/1997/L.20 was not balanced, since it reflected only one point of view and failed to take into account the fact that various legal systems adopted by democratically elected Governments reflected the will of the people who were alone able to decide whether or not capital punishment should be imposed for the most serious crimes in a given context. A single concept could not be applied on a global scale.

59. Furthermore, the death penalty was not in itself an inherently human rights matter. It would become so if it gave rise to serious violations of such rights as, for example, if it was used to suppress opponents or terrorize the population. In that case alone should the Commission deal with the situation. The sponsors of the draft resolution were trying to railroad the members of the Commission, and had not had the courtesy of engaging in the necessary consultations in order to draw up a text based on consensus as demanded by current trends.

60. For those reasons, it was proposed to replace the sixth paragraph of the preamble, which reflected only the opinion of the Human Rights Committee, by a reference to article 6, paragraph 2, of the International Covenant on Civil and Political Rights, which did not prohibit the death penalty. It was also proposed that a new paragraph 1 should be added, reaffirming the need to respect the principle of the sovereignty of States so as not to call in question the legislative and democratic procedures of the countries in question. As for paragraphs 3 and 4, it would be out of place for the Commission to call upon States which maintained the death penalty to observe the Safeguards in that respect and progressively to restrict the number of

offences for which the death penalty could be imposed - which suggested that such States were already contravening international law. It could, however, invite them to do so. Paragraphs 5 and 8 should be deleted for the same reason. Lastly, monitoring by the Secretary-General and the Commission in respect of that important question would be inadmissible from the standpoint of the sovereignty of States.

61. The sponsors requested a roll-call vote on each of the proposed amendments.

62. Mr. TOSCANO (Italy) said that the sponsors of the draft resolution found criticism concerning absence of consultation inadmissible, since the text had been distributed sufficiently in advance for all members of the Commission and the coordinators of various groups to present their views, which some had indeed done. In drafting their text, the sponsors had taken into consideration the concerns of those who were not so much in doubt about the justification of the ultimate objective as about the time necessary for its attainment. They had, moreover, done away with elements that might have given rise to controversy, since it was not their intention to impose their values on others. The draft resolution had a twofold purpose, namely, to reaffirm the need gradually to abolish the death penalty and to draw attention to the obligations that already restricted its application. The proposed amendments could not be perceived as being aimed at improving or balancing the draft. On the contrary, they deprived it of all meaning. The sponsors therefore urged delegations which were not radically opposed to the draft resolution not to vote in favour of the amendments.

63. Mr. LEHMANN (Denmark) pointed out that the Security Council, acting under Chapter VII of the Charter of the United Nations, by which all 185 Members of the United Nations were bound, had on two occasions come out against the death penalty because it was not covered by the statutes of the two international tribunals set up to try the perpetrators of crimes committed in the former Yugoslavia and in Rwanda. It should therefore be borne in mind, during the discussion of the matter, that the highest bodies of the international community did not accept that form of punishment.

64. Mr. BIGGAR (Ireland) said he wished to dispel the impression given by the representative of Malaysia that the sponsors of the draft resolution wished to impose their views on other States or on the international community as a whole, which would be impossible. They had, on the contrary, endeavoured to be persuasive, which was everyone's right. His delegation would vote against the proposed amendments.

65. Mr. VERGNE SABOIA (Brazil) said that his delegation was resolutely committed to the spirit of the draft resolution, of which it was a sponsor, and also subscribed to the methods advocated which were sufficiently flexible to take into account the concerns of countries that considered it necessary to maintain the death penalty. The proposed amendments would completely distort the purpose of the draft resolution and do away with its essential elements which should, in any event, govern the application of the death penalty.

His delegation, which was in particular opposed to the addition of the proposed new paragraph 1, would vote against the amendments in document E/CN.4/1997/L.35.

66. Mr. RAM SIMKHADA (Nepal) said that his delegation, which did not wish to be listed as a sponsor of the draft resolution, would nevertheless vote for it since it presented abolition of the death penalty as a universal objective to be attained progressively, without impinging on the sovereignty of States. It would vote against the proposed amendments.

67. Mr. HYNES (Canada) endorsed the points made by the representatives of Italy, Ireland and Brazil in speaking against the proposed amendments and in particular the new paragraph 1, which was at variance with the objectives of the Commission and the fundamental principles of international law - and especially the most important one, namely, the right to life, that was binding upon all States.

68. Mr. SANDOVAL BERNAL (Colombia) was in complete agreement with what had been stated by previous speakers and pointed out that the Colombian Constitution expressly prohibited the death penalty. He rejected the argument that a State could invoke specific legal or cultural features in order to evade the obligation to observe the fundamental rights of the individual. His delegation would vote against the proposed amendments.

69. Mr. MUKHOPADHYAY (India) explained that India was opposed neither to the spirit nor to the objectives of the draft resolution, since it applied the death penalty only exceptionally and for particularly odious crimes. Even in such cases, however, there were safeguards. Any death sentence had to be confirmed by a higher body. The accused could appeal to the High Court or to the Supreme Court and, as a last resort, could request a pardon from the Governor of the State in question or the President of the Republic. There were also provisions under which the sentence could be suspended for pregnant women and minors could not be sentenced to death. For those reasons, his delegation was unable to accept the wording of the draft resolution, which was too unbalanced owing to lack of consultation, and would vote for the amendments in order to correct those shortcomings. Furthermore, it was not appropriate that a question that the General Assembly had examined and dismissed should emerge once again two years later before the Commission, a subsidiary body of the Economic and Social Council which itself was a subsidiary body of the Assembly. Not enough time had elapsed and the adoption of the draft resolution might well create an unfortunate precedent; for that reason his delegation would abstain from the vote.

70. Mrs. RUBIN (United States of America) said that her delegation, although supporting the principle that States should impose the death penalty only on the basis of strict respect for international standards, was unfortunately unable to support a draft resolution which lacked balance and departed considerably from recognized international standards on a matter on which there was no consensus. International law, while restricting the application of the death penalty to the most serious crimes and providing safeguards in that connection, did not prohibit it. The International Covenant on Civil and

Polit'cal Rights expressly recognized the right of countries which had not abolished the death penalty to apply it. It was therefore up to States themselves to reach a decision in the matter in accordance with international law. By not recognizing their right to do so, the draft resolution failed to take into account the opinion of peoples who had expressed themselves in a democratic manner in favour of the death penalty.

71. Mr. LILLO (Chile) said that his delegation had associated itself with the draft resolution because it supported the objective of the progressive abolition of the death penalty. It would vote against the proposed amendments which would have the effect of distorting its spirit.

72. Mr. DEMBRI (Algeria) said that his delegation, which understood and approved criminal law provisions aimed at limiting the number of crimes to which the death penalty could be applied, would have preferred the draft resolution to pave the way for the adoption by consensus of a moratorium on the death penalty without espousing the abolitionist approach reflected in paragraph 5. Algeria, where capital punishment had been suspended since October 1993, nevertheless hoped that no binding obligation would be created, especially for Member States that had not yet acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights. Furthermore, apart from various aspects relating to the sovereignty of States, abolition required extremely broad consultation between countries belonging to the same civilization, namely, those of the Organization of the Islamic Conference, the Arab League and OAU. For those reasons, Algeria was unable to support the draft resolution and would vote for the proposed amendments.

73. Mr. BEBARS (Egypt) associated himself, as one of the sponsors of the amendments proposed in document E/CN.4/1997/L.35, with the observations of the representatives of India, the United States and Algeria. He was unable to support the draft resolution.

74. Mr. KONISHI (Japan) emphasized that the decision on whether the death penalty should or should not be authorized in a country was a delicate matter which should take into account a number of factors, such as public opinion, criminality and the State's policy in criminal matters. It was therefore inappropriate to try to bring about its uniform abolition without taking those factors into account. His delegation would vote against the draft resolution.

75. Mr. Joun Yung SUN (Republic of Korea) explained that his delegation would vote against the draft resolution since each Government had the sovereign right to decide, using its own criteria, whether it would adopt, maintain or abolish the death penalty. If the citizens of a country decided, through their representatives, to adopt a law eliminating from society persons responsible for particularly serious crimes, other countries should respect their wishes. In that respect, abolition of the death penalty, if it failed to take specific cultural contexts into account, would not necessarily serve the cause of human rights.

76. Mr. CHOWDHURY (Bangladesh) commended Italy on the efforts it had made for a number of years to have the death penalty abolished, but emphasized that the attainment of that objective implied the existence of ideal conditions

which had not yet been achieved. At the present time many societies still regarded the death penalty as a necessary deterrent for those committing particularly heinous crimes. Bangladesh for its part applied the death penalty only in exceptional cases; it hoped that one day it could be abolished and at that time it would support a draft resolution along those lines. For the present, however, abolition of the death penalty was a noble but premature idea.

77. Mr. LIU Xinsheng (China) said he would vote for the proposed amendments since the draft resolution was not sufficiently balanced.

The meeting rose at 1.10 p.m.